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BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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In the Matter of

North American Numbering Council
Letter Seeking Clarification of the
Term Technology Neutral

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DA 97-2234

CC 92-237

COMMENTS OF
THE CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION

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The Cellular Telecommunications Industry Association ("CTIA")¹ submits its Comments in the above-captioned proceeding.² CTIA supports the implementation of technology neutral numbering solutions which are inclusive of wireless capabilities. Numbering administration proposals, such as number pooling, which allow wireline but not wireless carriers to participate should be rejected by the Commission. Rather, the Commission should adopt technology neutral solutions such as area code splits and overlays that affect all consumers and carriers similarly.

¹ CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service ("CMRS") providers, including 48 of the 50 largest cellular and broadband personal communications service ("PCS") providers. CTIA represents more broadband PCS carriers and more cellular carriers than any other trade association.

² Common Carrier Bureau Seeks Comment on North American Numbering Council Letter Seeking Clarification of the Term "Technology Neutral", DA 97-2234 (released October 20, 1997).

I. ADOPTION OF A NUMBER POOLING SCHEME PRIOR TO THE IMPLEMENTATION OF WIRELESS NUMBER PORTABILITY VIOLATES THE COMMISSION'S PRINCIPLES OF TECHNOLOGICAL NEUTRALITY.

In its request that the Commission clarify the meaning of technological neutrality, the North American Numbering Council ("NANC") notes that CMRS providers have been working with NANC to adopt numbering administration policies that are both technologically neutral and provide long-term efficient allocations of depleting number resources. The proposed number pooling scheme, however, fails to satisfy both of these objectives.

Under a number pooling regime, carriers would be assigned telephone numbers in blocks of 1,000 with no guarantee that all of the numbers in an NXX code will be assigned to a single carrier's switch. Presently, all carriers' networks are configured to access 10,000 numbers through switch-based NXX codes. The introduction of a number pooling environment would require carriers to add new routing capabilities to their systems to enable the carriers to differentiate number ranges assigned to different carriers within a single NXX. In fact, it is understood that the technical and operational standards for number pooling require that a carrier first implement long-term Local Number Portability ("LNP") before it can utilize numbers from the pool. As noted by the Pennsylvania Public Utility Commission "[w]e understand this [number pooling] proposal is dependent on the Location Routing Number (LRN) function of LNP

implementation and thus will have to await LNP implementation."³ The Public Utility Commission, however, decided only to delay implementation of number pooling until wireline carriers have deployed LNP.

Under the Commission's rules, CMRS providers are not required to implement LNP until June 30, 1999.⁴ A number pooling scheme implemented prior to that date would allow only wireline carriers to participate.⁵ Prior to implementing LNP, CMRS carriers would not be able to take numbers in increments of 1,000 which would require them to share an NXX with another telecommunications carrier. Consequently, CMRS providers are disadvantaged by their lack of access to new telephone numbers in contravention of Section 251⁶ and the Commission's previous

³ See Petitions of NPA Relief Coordinator Re: 412, 215/610, and 717 Area Code Relief Plans Order in Docket Nos. P-00961027, P-00961061, P-00961071 at 35 (adopted July 10, 1997) ("Pennsylvania Order").

⁴ Telephone Number Portability, First Report and Order and Further Notice of Proposed Rulemaking in Docket No. 95-116 at ¶ 166 (released July 2, 1996) ("The record indicates that additional time is needed to develop standards and protocols, such as ten-digit-based screening, to overcome the technical burdens unique to the provision of seamless roaming on cellular, broadband PCS, and covered SMR networks."); see also First Memorandum Opinion and Order on Reconsideration at ¶ 134 (released March 11, 1997) ("First Memorandum Opinion and Order").

⁵ The Commission's wireless LNP implementation deadlines are under appeal and could be further delayed by the court or by the Wireless Telecommunications Bureau pursuant to its delegated authority. See Bell Atlantic NYNEX Mobile, Inc. v. F.C.C., No. 97-9551 (10th Cir.) (Briefs for Petitioners filed October 22, 1997); see also First Memorandum Opinion and Order at ¶ 134.

⁶ 47 U.S.C. § 251(e)(1) ("The Commission shall create or designate one or more impartial entities to administer

determinations that numbering administration must be technology neutral.⁷

The Commission should ensure that there will be adequate numbering resources for all providers -- both wireline and wireless -- and preempt number pooling mechanisms which favor wireline networks over wireless networks.⁸ The Commission's broad authority to prevent the anti-competitive use of telephone numbers is established in the Communications Act. In 1995 the Commission recognized the competitive significance of technological neutrality in numbering administration when it rejected an Ameritech numbering administration proposal that would have favored wireline carriers at the expense of wireless

telecommunications numbering and to make such numbers available on an equitable basis." (emphasis added).

⁷ Because wireless carriers will not be capable of accessing regional telephone number databases during the transitional period between wireline and wireless LNP, CMRS providers will be required to pay the wireline carrier to perform database queries for calls that terminate on the wireline network. By increasing the likelihood that an NXX is no longer associated with a particular carrier's switch, number pooling significantly raises the possibility that a database query is required for any given call. In their proposed LNP tariffs, the ILECs propose fixed charges that could be as high as \$500 per order and recurring charges of .00250 per database query. In effect, number pooling, prior to the execution of wireless LNP, will increase the number of database queries and further raise CMRS number portability costs with no attendant benefits to CMRS subscribers. See Pacific Bell Telephone Company Tariff FCC No. 128, Transmittal No. 1945 (October 3, 1997); Southwestern Bell Telephone Company Tariff FCC No. 73, Transmittal No. 2638 (June 6, 1997).

⁸ See 47 U.S.C. § 251(e)(1) ("The Commission shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States.")

service providers. In its Declaratory Ruling the Commission noted as follows:

[A] successful administration of the NANP should seek to accommodate new telecommunications services and providers by making numbering resources available in a way that does not unduly favor one industry segment or technology and by making numbering resources available in an efficient, timely basis. We believe that the assignment of numbers based on whether the carrier provides wireless service is not consistent with these objectives and could hinder the growth and provision of new beneficial services to consumers."⁹

Implementation of number pooling, however, before wireless carriers can utilize numbers from the pool unduly favors wireline carriers. Because wireless carriers are specifically excluded as a consequence of their technology, number pooling will result in the distribution of numbers based on "whether the carrier provides wireless service."

The Commission recently reiterated the importance of technology neutral numbering administration by establishing that "numbering administration should: (1) seek to facilitate entry into the communications marketplace by making numbering resources available in an efficient and timely basis; (2) not unduly favor or disadvantage any particular industry segment or group of consumers; and (3) not unduly favor one technology over another."¹⁰ State Administration of number pooling before the

⁹ Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech - Illinois, Declaratory Ruling in IAD File No. 94-102, 10 FCC Rcd 4596 at ¶ 29 (released January 23, 1995).

¹⁰ Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, et. al., Second Report and Order and Memorandum Opinion and Order in CC Docket Nos. 96-98, 95-185, NSD File No. 96-8, CC Docket No. 92-237, IAD File No. 94-102 at ¶ 281 (released August 8, 1996) ("Second Report and Order").

implementation of wireless LNP does not satisfy these principles and will severely hinder CMRS providers' ability to provide service to their customers.

II. THE COMMISSION SHOULD REQUIRE THAT STATES ADOPT TECHNOLOGY NEUTRAL NUMBERING ADMINISTRATION PLANS.

CTIA and its members support the efficient allocation of depleting number resources. Mechanisms which specifically exclude wireless carriers, however, unduly burden their ability to offer service and to one day compete with wireline carriers. In effect, the number pooling proposal for which the NANC seeks guidance penalizes wireless carriers for their growth. The Pennsylvania Public Utility Commission has stated as much when it concluded that

although the Commission understands the particular needs of wireless carriers, it is unpersuasive for them to contend they should not have to bear any burden of a possible solution, while customers who in no way contributed to the problem endure the detriments of numerous area code changes.¹¹

The Commission should reject this flawed reasoning and preempt state numbering administration plans that are based on technology-specific solutions.

All carriers are responsible for the use of telephone numbers and no single technology should be penalized because its growth has outpaced that of other telecommunications service providers. The Pennsylvania Public Utility Commission's implicit message that wireless expansion, and the concomitant use of telephone numbers by wireless consumers, justifies the adoption

¹¹ Pennsylvania Order at 16.

of a plan which discriminates against wireless technology is not consistent with the Commission's goals of realizing competitive wireline and wireless networks. Rather than foster continued competition and increased wireless usage, number pooling threatens to stifle competition by limiting the numbers available to wireless carriers. When, as here, there is an opportunity to realize efficient allocation of numbering resources through non-discriminatory means the Commission should prohibit states from adopting a discriminatory number pooling policy.

The discriminatory management of existing numbers cannot be supported while there are less discriminatory and more practical solutions to abate the long-term depletion of telephone numbers. For example, the Commission should seek to manage numbering shortages through area code splits and area code overlays which can be implemented by all carriers and affect all consumers similarly. Number pooling, by contrast, provides only a short-term delay for the inevitable adoption of splits and overlays by attempting to more efficiently allocate existing numbers. Eventually, as numbers are depleted through increased usage by all carriers, states will be required to adopt either area code splits or overlays to increase the total number of available telephone numbers.

The Commission has already addressed the states' concerns that area code solutions are generally not favored by consumers. Recognizing the inevitability of area code splits or overlays, the Commission observes that "[a]s competition in telecommunications services takes root, consumers will become

more accustomed to ten-digit dialing and to area code overlays and the states will face less resistance in their efforts to implement new area codes than they will in the near term."¹² Number pooling is a stop-gap measure that may reduce ILEC consumer complaints in the near term, at the expense of new entrants, but fails to achieve a long range competitively neutral solution. It will not eliminate the certainty that the Commission agreed will come as more competition enters the market and more uses for telephones are realized. The Commission should not permit a short-term discriminatory policy like number pooling to take root while long-term technology neutral solutions are available.

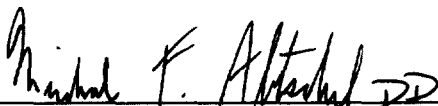
¹² Second Report and Order at ¶ 283.

CONCLUSION

For these reasons CTIA respectfully requests that the Commission and the NANC reject state proposals to implement number pooling prior to the adoption of LNP by all telecommunications carriers.

Respectfully submitted,

**CELLULAR TELECOMMUNICATIONS
INDUSTRY ASSOCIATION**



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